

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

HYDRO COMPONENT SYSTEMS, LLC,

Plaintiff,

Case No. 05-C-1052

v.

HOH SYSTEMS, INC., d/b/a,
HYDROTHANE SYSTEMS,

Defendant.

OPINION AND ORDER

The Defendant in this case moved to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), and, later, the Plaintiff filed a notice of voluntary dismissal. A Plaintiff has an absolute right to dismiss voluntarily before an answer or a motion for summary judgment is filed. The Defendant has not filed an answer and the court has not converted the motion to dismiss into a motion for summary judgment. See Marquis v. Federal Reserve Bank of Chicago, 286 F.3d 1014, 1017-18 (7th Cir. 2002). Therefore, the court ORDERS that this action is dismissed without prejudice.

IT IS FURTHER ORDERED that the “Defendant’s Motion to Dismiss” (filed November 16, 2005) IS DENIED without prejudice.

IT IS FURTHER ORDERED that the Clerk of Court shall enter a judgment of dismissal as a separate document. See Federal Rule of Civil Procedure 58. This judgment shall provide that:

Plaintiff Hydro Component Systems, LLC brought this action against Defendant HOH Systems, Inc. d/b/a Hydrothane Systems before the court, the Honorable

Thomas J. Curran, District Judge, presiding, and the
Plaintiff having voluntarily dismissed all claims raised,

IT IS ORDERED AND ADJUDGED

that this action is dismissed without prejudice, but without
costs to either party.

Done and Ordered in Chambers at the United States Courthouse,
Milwaukee, Wisconsin, this 13th day of December, 2005.

s/ Thomas J. Curran
Thomas J. Curran
United States District Judge